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ORDINANCE NO. 50-179

AN ORDINANCE ADMENDING SECTIONS 10.12.010, 10.12.020, 10.12.030, 10.12.040, 10.12.050, 10.12.060, 10.12.070, 10.12.080, 10.12.090, 10.12.100, 10.12.110, 10.12.120, 10.12.130, 10.12.140, 10.12.150, 10.12.160, 10.12.180 AND 10.12.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CONCRETE CONSTRUCTION ON THE RIGHT OF WAY AND REPEALING THE ORIGINALS THEREOF.

AN ORDINANCE CREATING SECTIONS 10.12.135, 10.12.136 AND 10.12.137 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CONCRETE CONSTRUCTION ON THE RIGHT OF WAY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.12.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“To be constructed of concrete and in accordance with specifications.” All public sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches constructed in the city shall be of concrete unless otherwise ordered by the City Council and shall be constructed according to specifications on file in the office of the City Engineer for the purpose of giving the City, through its proper officers, supervision over the construction of such public sidewalks, wheelchair ramps, Curbs, gutters and Drive approaches. The City Engineer shall have the authority to approve other materials for temporary situations or for non-standard sidewalks, Curbs, gutters and private Drive approaches.

SECTION 2. Section 10.12.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Plans and specifications for repair, etc., of sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches.” All sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches in the city shall be repaired or reconstructed in accordance with the official plans and specifications on file in the office of the City Engineer. The City Engineer

may require temporary sidewalks and wheelchair ramps be constructed forthwith during the construction, reconstruction, maintenance, or otherwise of any sidewalk or wheelchair ramp.

SECTION 3. Section 10.12.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“License required to construct—Fee; term.” Every Person, before constructing any public sidewalk, wheelchair ramp, Curb, gutter or Drive approach, or before removing any Curb or sidewalk for the purpose of constructing a private approach in the city, shall be required to obtain a license from the City Engineer for which payment of a license fee as listed in Section 10.34.010 authorizes the licensee to engage in such work for a period of twelve (12) months.

Applicants for the license must first take and pass a test that is administered by the Engineering Division. There is a charge to take the test which allows applicants who don't pass the test the first time to retest after one (1) week. The charge is listed in Section 10.34.010.

All license renewals not paid within thirty-six (36) days after the due date shall be subject to a penalty equal to the amount of the license, and all licenses not paid within sixty (60) days after the due date shall be subject to a penalty equal to double the amount of the license. Inactive contractors who do not renew their licenses within one year of the due date will be required to pay the charge to take and pass the test to renew.

The City Engineer shall have the authority to waive the license requirement to allow contractors and/or property owners to perform gravel and asphalt work.

SECTION 4. Section 10.12.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Same—Qualifications of applicant to be shown—Bond required.”

(a) Before a license shall be granted by the City Engineer, under the provisions of the preceding section, the Person applying for the same shall show, subject to the rules and regulations to be furnished by the City Engineer, skill in constructing public sidewalks, wheelchair ramps, Curbs, gutters, and private Drive approaches, and cutting through such Curbs and sidewalks.

(b) Before any concrete contractor's license is issued, the applicant therefore shall have filed with the City Engineer's office a surety bond in the amount of five thousand (5,000) dollars, which shall be approved as to form by the City Attorney. The condition of such bond shall be that the principal therein shall comply with all ordinances of the City relating

to and regulating the construction of all public sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches, and hold and save the City harmless from any and all damage to persons or property resulting from or growing out of any opening or Excavation made, material stored or placed upon any operation in the street, alley or public property, or from any other action by the principal therein. The bond renewal date shall be the same date as the license renewal date.

SECTION 5. Section 10.12.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Permit required to engage in construction; fee, etc.” Contractors are required to obtain a permit(s) from the City Engineer before constructing any public sidewalk, wheelchair ramp, Curb, gutter or Drive approach on the City Right of way. The permit fees listed in Section 10.34.010 shall apply whether the abutting property is commercial or residential.

Widening or replacement of existing drives shall be considered as a new Drive approach in assessing of fees. Such permit shall state the location of the sidewalk, wheelchair ramp, Curb, gutter or Drive approach to be constructed, widened, replaced or removed.

Permits are nonrefundable and nontransferable.

SECTION 6. Section 10.12.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Refusal of permits and/or penalty for failure to obey rules and regulations.” The City Engineer shall refuse permits to contractors who fail or refuse to obey all rules and regulations necessary in the enforcement of this chapter. A penalty up to double the cost of the permit will be charged for failure to call for inspections or obtain a permit prior to the beginning of work that will be performed on city Right-of-Way.

All permits not paid within thirty six (36) days after the due date shall be subject to a penalty equal to the amount of the permit fee, and all permits not paid within sixty (60) days after the due date shall be subject to a penalty equal to double the amount of the permit fee. Any amounts owed by the Permittee may be offset against any amounts due or payable from the City, including withholding funds of any awarded project to reimburse the City for any outstanding debts. All permits and penalties not paid within ninety (90) days of the due date will be turned over to the contractor’s bond company.

SECTION 7. Section 10.12.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Concrete Specifications” All concrete work shall comply, at a minimum, with City Standard Specifications as promulgated by the City Engineer.

SECTION 8. Section 10.12.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Width required of sidewalks; exceptions.” All new public sidewalks constructed under the provisions of this chapter shall be, at a minimum, five (5) feet in width unless otherwise authorized by the City Engineer.

SECTION 9. Section 10.12.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Widening of existing sidewalks.” Any sidewalk may be widened at any time by directive of the City Council or the City Engineer.

SECTION 10. Section 10.12.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Location and grade of sidewalks.” All sidewalks shall be constructed at the location and grade established by the City Engineer.

SECTION 11. Section 10.12.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Inspection of work—Notice to City Engineer; acceptance or refusal. Every contractor or other Person constructing public sidewalks, wheelchair ramps, Curbs or gutters or private Drive approaches shall notify the City Engineer when the work is ready for inspection so as to give ample time to make the inspection before the concrete is placed. If upon investigation and inspection by the City Engineer, or the Engineer’s agent, the public sidewalk, wheelchair ramp, Curb, gutter or Drive approach is found to be out of compliance with the specifications provided for in the construction of such sidewalk, Curb, gutter or Drive approach, the City Engineer may refuse to accept and approve the work and require that any errors in the construction be removed, repaired, or corrected to the satisfaction of the City Engineer prior to the acceptance of the work.

SECTION 12. Section 10.12.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Same—Duty of sidewalk inspector.” For the purpose of making the inspection as provided for in this chapter, the sidewalk inspector in the City Engineer's office shall make the inspection of sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches as provided for in this chapter, which inspection shall be made according to the rules and specifications furnished by the City Engineer.

SECTION 13. Section 10.12.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Same—Refusal of future permits until defects in construction are corrected.” The City Engineer shall refuse any contractor permits to build sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches until such defect in construction in previous work has been removed, replaced, or corrected to the satisfaction of the City Engineer.

SECTION 14. Section 10.12.135 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Responsibility of abutting property owner.” Whenever the City Engineer, or the Engineer’s agent, finds that the public sidewalk, wheelchair ramp, Curb, gutter or Drive approach is not in accordance with the specifications provided for in the construction of such sidewalk, Curb, gutter or Drive approach, or a temporary sidewalk or wheelchair ramp has not been provided as required in 10.12.020 and the entity responsible for the work cannot be identified, is not licensed and bonded, or is unwilling to pay for the work or repairs, the Engineer may require that any errors in the construction be corrected forthwith by the abutting property owner.

SECTION 15. Section 10.12.136 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Notice to construct in accordance with city specifications.” Whenever any Person whose duty it is to correct any errors in construction as described in Section 10.12.135 shall fail to do so, the City Engineer or the Engineer’s representative shall serve or cause to be served upon such Person a notice requiring such Person to comply with the requirements of Section 10.12.135. Such notice may be served by mailing the same, postage prepaid and certified, to the last known address of such owner or occupant, or in cases in which such Person cannot be found such notice may be posted in a conspicuous place upon the lot or piece of ground to be corrected.

SECTION 16. Section 10.12.137 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

“Same—Failure to comply with notice.” If the owner or occupant of a parcel fails to correct the errors after having been given the notice provided for in Section 10.12.136, the repairs described in Section 10.12.135 may be made under the direction of the City Engineer or the Engineer’s representative and the expense thereof taxed against the abutting lot or piece of property and such tax shall be levied, certified and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.

SECTION 17. Section 10.12.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Requiring new sidewalks to be built—By resolution after petition.” The City Council may, by resolution passed at any meeting, require the building of any new sidewalk upon the signing of a petition by a majority of resident owners or by owners representing fifty-one (51) percent or more of the area of the improvement district.

SECTION 18. Section 10.12.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Same—Resolution to specify kind, width, length, etc.” The resolution referred to in the preceding section shall specify the kind, width, and length of sidewalk to be built.

SECTION 19. Section 10.12.160 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Same—Publication of resolution; notice.” Immediately upon the passage of the resolution by the City Council ordering the sidewalk to be built, it shall be the duty of the City Clerk to cause the publication of such resolution together with a notice stating the names of the streets upon which sidewalks are to be constructed, which resolution and notice shall be published in the official city paper as provided by law.

SECTION 20. Section 10.12.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Same—Failure of owner to construct after notice; estimate of cost to be made; work to be let by contract; costs. If any sidewalk is not constructed as required by resolution, the City Council may order such sidewalk to be constructed as hereinafter prescribed. An estimate of the

cost thereof shall first be made under oath by the City Engineer and submitted to the Purchasing Manager, who shall proceed with letting the contracts as provided in City Code Chapter 2.64.

The cost of constructing such sidewalk shall be assessed against the owner of the abutting property and the assessment levied against such property as provided by law.

SECTION 20. Section 10.12.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Same—Condemnation of existing sidewalks; construction of new sidewalks.” The City Council may at any time, by resolution, condemn any portion of any sidewalk whenever in its judgment it shall be deemed necessary and provide for the construction of a new sidewalk in accordance with the provisions of this chapter. The City Council and/or the City Engineer may provide for the removal of a sidewalk without providing for any new sidewalk in its stead.

SECTION 21. The original of Sections 10.12.010, 10.12.020, 10.12.030, 10.12.040, 10.12.050, 10.12.060, 10.12.070, 10.12.080, 10.12.090, 10.12.100, 10.12.110, 10.12.120, 10.12.130, 10.12.140, 10.12.150, 10.12.160, 10.12.180 and 10.12.190 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 22. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer Magaña
Director of Law and City Attorney